

# **United States Bankruptcy Administrator** **Eastern District of North Carolina**

[Eastern District Bankruptcy Seminar - 2010]

## **I.) Introduction**

Tax return and Pay advice information is due to the Bankruptcy Administrator within 14 days after the file date (See Local Bankruptcy Rule No. 4002(b)(6)(A), EDNC). The documents provided should be in PDF.

Email Address: [means\\_test@nceba.uscourts.gov](mailto:means_test@nceba.uscourts.gov)

Subject line should include:

» Case Number, Case Name and whether the case was filed in Raleigh or Wilson

- Example: 08-01234-8-ATS: Doe, John Raleigh

### ***What we do not want to happen...***

A Motion To Show Cause As To Why The Debtor's Case Should Not Be Dismissed will be filed on the 24<sup>th</sup> day after the file date if all necessary information is not provided to the Bankruptcy Administrator. All Show Cause Motions filed by the Bankruptcy Administrator will not be taken off the court's calendar, which means that the debtor and the debtor's counsel must arrive at court on the specified day and explain why the necessary documentation was not supplied in a timely manner.

## **II.) Tax Return and Pay Advice Information**

Please make sure that:

- we have the first two initial pages of the return (at a minimum);
- the tax returns are signed by the debtor(s);
- we have the pay advices from the 60 day period prior to the file date;
- all pages are legible;
- all pay advices have check dates to reference; and,
- we have documentation from both the debtor and joint debtor.

***(A) What if the following apply:***

- the debtor is unemployed;
- the debtor cannot supply all pay advices received during the 60 day period prior to filing;
- the debtor cannot supply the most recent year's tax return;
- the debtor only receives Social Security and/or Retirement;
- the debtor only receives money from a third party (household contributions)

The Debtor(s) can complete and sign the Statement Regarding Pay Advices and Tax Return, which addresses the above related scenarios. This Statement can be found on our website at - [www.nceba.uscourts.gov](http://www.nceba.uscourts.gov)

***(B) Helpful Hint***

If there are major variations throughout the debtor's six-month pay advice period then please provide either an explanation of how the current monthly income ("CMI") was calculated, or all pay advices received during the six-month time frame.

### **III.) Form B22A ("Means Test")**

Please make sure:

- to add the non-filing spouse's **gross** income;
- that automobile and mortgage payments are included in both the standard and secured debt sections;
- that car payments are not combined and summed with one vehicle standard;
- that retirement, social security and/or household contribution amounts are placed in correct sections;
- lease payments are not included (debtor(s) can only claim standard);
- that the most up-to-date standards are incorporated into the Means Test; and,
- the marital adjustment is properly completed.

**(A) *Helpful reminders***

- If a marital adjustment is taken, please specify what the amount is referencing. The updated Means Test form allows the Debtor to itemize the marital adjustment. This itemization feature will allow the Bankruptcy Administrator's Office to review the Debtor's Means Test more efficiently.
- If a marital adjustment includes the non-filing spouse's payroll taxes, please ensure that the same payroll tax deductions are not deducted later in the Means Test (*no double dipping*).
- Complete the Chapter 13 administrative expense section if, and only if, the debtor is eligible. In essence, if a debtor has monthly disposable income then he or she is eligible.

**(B) *What to Avoid:***

- All expenses included in the Means Test that do not belong to the debtor, but rather, belong to a member of the debtor's household must be offset with the inclusion of the income contributed towards those expenses. In essence, a household member's expenses cannot help a debtor '*pass*' the Means Test.